

IC 27-8-13

Chapter 13. Medicare Supplement Insurance Solicitations

IC 27-8-13-1

"Medicare" defined

Sec. 1. As used in this chapter, "medicare" means Title XVIII of the federal Social Security Act (42 U.S.C. 1395 et seq.).

As added by P.L.275-1987, SEC.2.

IC 27-8-13-2

"Medicare supplement insurance solicitation" defined

Sec. 2. As used in this chapter, "Medicare supplement insurance solicitation" means a meeting between an insurance producer and another individual at which the insurance producer discusses the possible issuance of a medicare supplement policy to the other individual.

As added by P.L.275-1987, SEC.2. Amended by P.L.178-2003, SEC.69.

IC 27-8-13-3

"Medicare supplement policy" defined

Sec. 3. (a) As used in this chapter, "Medicare supplement policy" means a group or individual policy of accident and sickness insurance or a subscriber contract of health maintenance organizations that is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare benefits.

(b) The term does not include a group policy issued:

- (1) to or for the benefit of employees;
- (2) to one (1) or more labor organizations; or
- (3) to the trustees of a fund established:
 - (A) by one (1) or more employees or former employees; or
 - (B) for members or former members of a labor organization.

(c) The term does not include:

- (1) a policy issued under a contract under Section 1876 or 1833 of the federal Social Security Act (42 U.S.C. 1395 et seq.); or
- (2) a policy issued under a demonstration project authorized under amendments to the federal Social Security Act.

As added by P.L.275-1987, SEC.2. Amended by P.L.255-1989, SEC.1; P.L.126-1992, SEC.1.

IC 27-8-13-4

Receipt for materials received by soliciting insurance producer; "materials" defined

Sec. 4. (a) Following a Medicare supplement insurance solicitation, an insurance producer shall give the individual involved in the solicitation a receipt for materials received by the insurance producer as a result of the solicitation.

(b) The receipt required under subsection (a) must be dated and

signed by the insurance producer and must set forth the following:

- (1) An itemized list of the materials received by the insurance producer.
- (2) The insurance producer's name.
- (3) The address and telephone number of the insurance producer's office.
- (c) As used in this section, "materials" includes any:
 - (1) document;
 - (2) cash;
 - (3) money order; or
 - (4) check or draft;

received by the insurance producer. The term does not include an application for a policy.

As added by P.L.275-1987, SEC.2. Amended by P.L.178-2003, SEC.70.

IC 27-8-13-5

"Applicant" defined

Sec. 5. As used in this chapter, "applicant" means:

- (1) in the case of an individual Medicare supplement policy, the person who seeks to contract for insurance benefits; and
- (2) in the case of a group Medicare supplement policy, the proposed certificate holder.

As added by P.L.255-1989, SEC.2. Amended by P.L.126-1992, SEC.2.

IC 27-8-13-6

"Certificate" defined

Sec. 6. As used in this chapter, "certificate" means a certificate:

- (1) issued under a group Medicare supplement policy; and
- (2) delivered or issued for delivery in Indiana.

As added by P.L.255-1989, SEC.3.

IC 27-8-13-6.2

"Certificate form" defined

Sec. 6.2. As used in this chapter, "certificate form" means the form on which a certificate is delivered or issued for delivery by the issuer.

As added by P.L.126-1992, SEC.3.

IC 27-8-13-7 Repealed

(Repealed by P.L.126-1992, SEC.17.)

IC 27-8-13-7.3

"Issuer" defined

Sec. 7.3. As used in this chapter, "issuer" includes:

- (1) an insurance company;
- (2) a fraternal benefit society;
- (3) a health care service plan;
- (4) a health maintenance organization; and

(5) any other entity;
that delivers a Medicare supplement policy or certificate in Indiana
or issues a Medicare supplement policy or certificate for delivery in
Indiana.

As added by P.L.126-1992, SEC.4.

IC 27-8-13-7.6

"Policy form" defined

Sec. 7.6. As used in this chapter, "policy form" means the form on
which a policy is delivered or issued for delivery by the issuer.

As added by P.L.126-1992, SEC.5.

IC 27-8-13-8

Application of chapter

Sec. 8. (a) Except as otherwise specifically provided, this chapter
applies to the following:

(1) All Medicare supplement policies delivered or issued for
delivery in Indiana on or after June 1, 1989.

(2) All certificates issued under group Medicare supplement
policies that have been delivered or issued for delivery in
Indiana.

(b) This chapter does not apply to insurance policies or health
care benefit plans, including group conversion policies, provided to
Medicare eligible persons that are not marketed or held to be
Medicare supplement policies or benefit plans.

*As added by P.L.255-1989, SEC.5. Amended by P.L.126-1992,
SEC.6.*

IC 27-8-13-9

Medicare supplement policies; standards; preexisting medical conditions

Sec. 9. (a) A Medicare supplement policy, contract, or certificate
in force in Indiana may not contain benefits that duplicate benefits
provided by Medicare. However, a change in Medicare coverage that
becomes effective after a Medicare supplement policy, contract, or
certificate is in force in Indiana and that causes a duplication of
benefits does not void the policy, contract, or certificate.

(b) The commissioner shall adopt rules under IC 4-22-2 to
establish specific standards for policy provisions of Medicare
supplement policies and certificates. Such standards shall be in
addition to and in accordance with Indiana law. No requirement of
IC 27 relating to minimum required policy benefits other than the
minimum standards contained in this chapter apply to Medicare
supplement policies and certificates. The standards may cover, but
are not limited to:

- (1) terms of renewability;
- (2) initial and subsequent conditions of eligibility;
- (3) nonduplication of coverage;
- (4) probationary periods;
- (5) benefit limitations, exceptions, and reductions;

- (6) elimination periods;
- (7) requirements for replacement;
- (8) recurrent conditions; and
- (9) definitions of terms.

(c) The commissioner may adopt rules under IC 4-22-2 that specify prohibited policy provisions not specifically authorized by statute that, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to a person insured or proposed to be insured under a Medicare supplement policy or certificate.

(d) Notwithstanding any other law, a Medicare supplement policy or certificate shall not exclude or limit benefits for a loss incurred more than six (6) months after the effective date of the policy because the loss involves a preexisting condition. The policy or certificate shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

As added by P.L.255-1989, SEC.6. Amended by P.L.126-1992, SEC.7.

IC 27-8-13-10

Medicare supplement policy and certificate standards; conformity with federal law and regulations

Sec. 10. (a) The commissioner shall adopt rules under IC 4-22-2 to establish minimum standards for:

- (1) claims payment;
- (2) marketing practices;
- (3) compensation arrangements; and
- (4) reporting practices;

for Medicare supplement policies and certificates.

(b) The commissioner may adopt rules under IC 4-22-2 that are necessary to conform Medicare supplement policies and certificates to the requirements of federal law and federal regulations. A rule adopted under this subsection may do the following:

- (1) Require refunds or credits if the policies or certificates do not meet loss ratio requirements.
- (2) Establish a uniform methodology for calculating and reporting loss ratios.
- (3) Assure public access to policies, premiums, and loss ratio information of issuers of Medicare supplement insurance.
- (4) Establish a process for approving or disapproving policy forms and certificate forms and proposed premium increases.
- (5) Establish a policy for holding public hearings before approval of premium increases.
- (6) Establish standards for Medicare Select policies and certificates.

As added by P.L.255-1989, SEC.7. Amended by P.L.149-1990, SEC.5; P.L.195-1991, SEC.1; P.L.126-1992, SEC.8.

IC 27-8-13-10.1

Model Medicare supplement policy standards

Sec. 10.1. (a) The commissioner shall adopt rules under IC 4-22-2 to establish standards for model Medicare supplement policies. The standards must include standards for benefits.

(b) An insurer may issue a Medicare supplement policy or certificate in Indiana only if the policy or certificate is one (1) of the model policies adopted by the department under subsection (a).

As added by P.L.195-1991, SEC.2. Amended by P.L.126-1992, SEC.9.

IC 27-8-13-11

Repealed

(Repealed by P.L.126-1992, SEC.17.)

IC 27-8-13-12

Reasonable benefits; loss ratio standards

Sec. 12. (a) Medicare supplement policies must return to policyholders benefits that are reasonable in relation to the premium charged.

(b) The commissioner shall adopt rules under IC 4-22-2 to establish minimum standards for loss ratios of Medicare supplement policies on the basis of incurred claims experience, or incurred health care expenses if coverage is provided by a health maintenance organization on a service rather than reimbursement basis, and earned premiums in accordance with accepted actuarial principles and practices.

As added by P.L.255-1989, SEC.9. Amended by P.L.126-1992, SEC.10.

IC 27-8-13-13

Repealed

(Repealed by P.L.149-1990, SEC.6.)

IC 27-8-13-14

Outline of coverage; contents

Sec. 14. (a) In order to provide for full and fair disclosure in the sale of Medicare supplement policies, a Medicare supplement policy or certificate may not be delivered in Indiana unless an outline of coverage is delivered to the applicant at the time application is made.

(b) The commissioner shall prescribe by rule adopted under IC 4-22-2 the form and content of the outline of coverage required by subsection (a). For purposes of this section, "form" means style, arrangements, and overall appearance, including such items as the size, color, and prominence of type and arrangement of text and captions. The outline of coverage must include the following:

(1) A description of the principal benefits and coverage provided in the policy.

(2) A statement of the renewal provisions, including a reservation by the issuer of a right to change premiums, and a disclosure of the existence of any automatic premium increases

based on the policyholder's age.

(3) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

As added by P.L.255-1989, SEC.11. Amended by P.L.126-1992, SEC.11.

IC 27-8-13-15

Informational brochures

Sec. 15. (a) The commissioner may prescribe by rule adopted under IC 4-22-2 a standard form and the contents of an informational brochure for persons eligible for Medicare that is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare.

(b) Except in the case of direct response insurance policies, the commissioner may require by rule adopted under IC 4-22-2 that the information brochure be provided to a prospective insured eligible for Medicare concurrently with delivery of the outline of coverage required under section 14 of this chapter.

(c) With respect to direct response insurance policies, the commissioner may require by rule adopted under IC 4-22-2 that the prescribed brochure be provided upon request to a prospective insured eligible for Medicare, but not later than the time of policy delivery.

As added by P.L.255-1989, SEC.12. Amended by P.L.126-1992, SEC.12.

IC 27-8-13-16

Disclosures distinguishing Medicare supplement coverages from accident and sickness coverages

Sec. 16. (a) The commissioner may adopt rules under IC 4-22-2 for captions or notice requirements that are determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not Medicare supplement coverages. The captions or notice requirements may apply to all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than:

- (1) Medicare supplement policies;
- (2) disability income policies;
- (3) basic, catastrophic, or major medical expense policies; and
- (4) single premium, nonrenewable policies.

(b) The commissioner may also adopt rules under IC 4-22-2 to govern the full and fair disclosure of the information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for Medicare.

As added by P.L.255-1989, SEC.13. Amended by P.L.126-1992, SEC.13.

IC 27-8-13-17

Return privilege notice; refund

Sec. 17. (a) Medicare supplement policies and certificates must have a notice prominently printed on the first page of the policy or certificate or attached to the first page stating in substance that the applicant has the right to return the policy or certificate within thirty (30) days of delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason.

(b) A refund made under this section shall be paid directly to the applicant by the issuer in a timely manner.

As added by P.L.255-1989, SEC.14. Amended by P.L.126-1992, SEC.14.

IC 27-8-13-18

Review and approval of proposed advertisements

Sec. 18. Every issuer of Medicare supplement insurance policies or certificates in Indiana shall provide a copy of any Medicare supplement advertisement intended for use in Indiana whether through written, radio, or television medium to the commissioner for review or approval by the commissioner to the extent required under Indiana law.

As added by P.L.255-1989, SEC.15. Amended by P.L.126-1992, SEC.15.

IC 27-8-13-19

Penalties for noncompliance

Sec. 19. In addition to any other penalties for violations of IC 27, the commissioner may take either or both of the following actions:

- (1) Require issuers violating this chapter or rules adopted under this chapter to cease marketing a Medicare supplement policy or certificate in Indiana that is related directly or indirectly to a violation.
- (2) Require the issuer to take the action necessary to comply with this chapter.

As added by P.L.255-1989, SEC.16. Amended by P.L.126-1992, SEC.16.

IC 27-8-13-20

Refund of unused premiums

Sec. 20. (a) All Medicare supplement policies issued for delivery in Indiana after June 30, 1990, must provide for the refund of unused premiums upon the death of the insured during the contract period.

(b) The amount of premium refund shall be prorated from the date following the date of death of the insured to the end of the contract period for which the premium has been paid.

(c) The refund required by this section shall be paid as follows:

- (1) If a person other than the insured paid the premium, to that person. A person entitled to a refund under this subdivision must provide proof of payment to the insurer.
- (2) If the insured paid the premium, to the surviving spouse of the insured. If there is no surviving spouse, the premium shall

be paid in the same manner as distributions of the net estate of a person who dies intestate under IC 29-1-2-1(d).

(d) A person entitled to receive a refund under this section must do the following:

- (1) Submit a written request for the refund.
- (2) Furnish proof of the insured's death.

As added by P.L.151-1990, SEC.2.